

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

MITCHELL F. LUHELLIER,

Petitioner,

v.

Case No. 2:07-cv-193  
HON. R. ALLAN EDGAR

DANIEL LESATZ,

Respondent.

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**MEMORANDUM AND ORDER**

Petitioner Mitchell F. Luhellier, a Michigan state prisoner in the custody of the Michigan Department of Corrections, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. The case was referred to Magistrate Judge Timothy P. Greeley for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and W.D. Mich. LCivR 72.1(d). On December 22, 2009, Magistrate Judge Greeley submitted his report and recommendation. [Doc. No. 19]. It is recommended that the habeas petition be denied and dismissed with prejudice. It is further recommended that a certificate of appealability be denied under 28 U.S.C. § 2253(c)(2) because petitioner Luhellier has not made a substantial showing of a denial of a right protected under the United States Constitution.

Petitioner Luhellier has not timely filed any objections to the report and recommendation. [Doc. No. 12]. After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. LCivR 72.3(b). Accordingly, for the reasons expressed in the report and recommendation the petition for writ of habeas corpus

brought under 28 U.S.C. § 2254 shall be **DENIED and DISMISSED WITH PREJUDICE**.

If petitioner Luhellier files a notice of appeal, it will be treated as an application for a certificate of appealability which shall be **DENIED** pursuant to 28 U.S.C. § 2253(c)(2). The Court concludes that petitioner Luhellier has not made a substantial showing that he has suffered the denial of a right protected under the United States Constitution.

A separate judgment will enter.

SO ORDERED.

Dated: February 5, 2010.

/s/ R. Allan Edgar  
R. ALLAN EDGAR  
UNITED STATES DISTRICT JUDGE